



6-19-3

RCE/
Non fee

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stefan Wintermantel
Serial No. 09/806,085

Filing Date: March 22, 2001

Title: CONNECTION ELEMENT FOR ATTACHMENT OF REMOVABLE
DENTURES AT TOOTH CROWNS OR TOOTH IMPLANTS

Examiner: John J. Wilson

Art Unit: 3732

June 17, 2003

DRN204T1

TRANSMITTAL LETTER

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

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SIR:

Transmitted herewith for filing is:

<X> Response to Notice of Improper Request for Continued Examination (RCE)

<X> Copy of Preliminary Amendment dated May 13, 2003 (9 pages)

<X> Copy of Second Preliminary Amendment dated May 20, 2003 (14 pages)

<X> Copy of Submission dated March 5, 2003 (2 pages)

<X> Copy of (4) four drawings

< > Fees in the amount of \$_____ are to be charged to a credit card. Form PTO-2038 is enclosed

< > Enclosed is a check to cover the fee in the amount of \$_____.

(X) The applicant hereby petitions the Commissioner of Patents and Trademarks to extend the time for response to any Office Action outstanding in the above captioned matter as necessary to avoid abandonment of the application. Please charge my deposit account No.11-0224 in the amount required to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to the above account.

(X) The Commissioner is hereby authorized to charge any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18 or any additional fees which may be required during the entire pendency of the application, or credit any overpayment, to Acct. No.11-0224. A duplicate copy of this sheet is enclosed. If and only if account funds should be insufficient, immediately contact our associate, Lisa Zumwalt, at (703)415-0579, who will pay immediately to avoid deprivation of rights.

() Please charge my Account No.11-0224 in the amount of \$_____. A duplicate copy of this sheet is enclosed.

A signature or signatures required for the above recited document(s) is (are) provided herebelow. Such signature(s) also provide(s) ratification for any required signature appearing to be defective in the above recited document(s).

Horst M. Kasper
Horst M. Kasper, 13 Forest Drive, Warren, N.J.07059
Reg. No. 28,559 Tel.(908)526-1717

MAIL CERTIFICATION: I hereby certify that the correspondence attached hereto is being deposited with the United States Postal Service with sufficient postage as ~~first~~ class mail in an envelope on the date indicated below and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231,

On 18 JUN 2003 18 JUN 2003

Signature: *Leticia K. Rodriguez*

Name: Leticia K. Rodriguez

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* Express MAIL Label No EU 2333 726 71 65



#15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Stefan Wintermantel

Serial No: 09/806,085

Filing Date: March 22, 2001

Title: CONNECTION ELEMENT FOR ATTACHMENT OF
REMOVABLE DENTURES AT TOOTH CROWNS OR TOOTH
IMPLANTS

Examiner: Wilson, John J

Art Unit: 3427

June 12, 2003

Attorney's Docket No. DRN204A7

RESPONSE TO
NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

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SIR:

This is in response to the Office Action mailed on June 3, 2003. The Office Action did not set a statutory period for response. Applicant petitions that, if required, the time for response be extended and the corresponding fee be charged. The Commissioner is hereby authorized to charge any additional fees which may be required to Acct. No. 11-0224. Applicant further respectfully requests that this response be accepted as a

bona fide effort to meet any potential response requirements outstanding and due in the above captioned matter.

The *Notice of Improper Request for Continued Examination* (RCE) exhibits a cross marking under point 7. Point 7 states “The request was not accompanied by a submission as required by 37 C.F.R. 1.114. Since the application is not under appeal, the time period set forth in the final Office Action or notice of allowance continues to run from the mailing date of that action or Notice.”

Applicant respectfully disagrees.

37 CFR par. 114 (c) reads as follows:

(c) A submission as used in this section includes, but is not limited to the written description, claims or drawings, new arguments, or new evidence in support of patentability.

Thus the submission clearly includes a submission of drawings.

The Office Action of December 13, 2003, on page 2, refers to Drawings as follows:

“The drawings filed March 222, 2001 are objected to by the Examiner because the letter designations located within darkened cross-hatching are unclear. The drawings do not clearly show the invention, a figure or figures

showing a denture and/or implant and the orientation of the elements is required. No new matter may be added.”

On March 12, 2003 the applicant filed a “Submission” mailed to Box “AF”, which submission was received on March 18, 2003 by the United States Patent and Trademark Office. The submission included four sheets of drawings with Figs. 1 through 21. No information was received by the applicant if this submission was accepted for entry into the file and/or if the submission overcame the objections expressed in the Final Rejection.

In case the submission of March 12, 2003 should have gone astray, applicant is submitting another copy of the submission of March 12, 2003 with this response.

37 CFR par. 114 (d) reads as follows:

“(d) if the applicant timely files a submission and fee set forth in par 117 (e), the Office will withdraw the finality of any Office Action and the submission will be entered and considered.”

Applicant respectfully submits that the submission of March 12, 2003 was timely filed relative to the request for Continued Examination filed on April 14, 2003.

Even though the submission of March 12, 2003 was timely filed and the fee was paid, the Office still has not withdrawn the finality of the Office Action of December 13, 2002 and entered and considered the submission of March 12, 2003.

Applicant petitions that the finality of the Office Action of December 13, 2003 be withdrawn and the submission of March 12, 2003 be entered and considered.

As to point 7 saying that the request was not accompanied by a submission, applicant notes that there is no requirement in 37 CFR 1.114 (d) that the request be accompanied by a submission. 37 CFR 1.114 (d) requires only a timely filing of the submission, but does not say anything about the issue of point 7, namely that the RCE be accompanied by the submission.

Applicant urges that a hypothetical requirement that a Request for Continued examination be accompanied by a Submission would be very wasteful, since it would require as a precautionary measure that all submissions made be again copied and for companionship purposes with the RCE be resubmitted. Such a hypothetical requirement as apparently suggested in the Notice would be clear government mandated wastefulness.

Applicant further submits that applicant filed on May 13, 2003 a Preliminary Amendment dated May 13, 2003. The preliminary Amendment states in the first sentence: "This is in response to the Office Action mailed on December 13, 2002 ..." and submits new claims 19 and 20. Applicant submits that such an amendment will not be entered after Final Rejection. Applicant further submits that such amendment as filed on May 13, 2003 was timely under 37 CFR 1.114 (d), since the Examiner had not yet picked up the case and entered the Submission of March 12, 2003 and/or considered the RCE.

Entry of the Preliminary Amendment is respectfully requested.

A copy of the Preliminary Amendment is attached.

Applicant further submits that applicant filed on May 20, 2003 a second Preliminary Amendment dated May 20, 2003. The preliminary Amendment states in the first sentence: "This is in further response to the Office Action mailed on December 13, 2002 ..." and submits new claim 21. Applicant submits that such an amendment will not be entered after Final Rejection. Applicant further submits that such amendment as filed on May 20, 2003 was timely under 37 CFR 1.114 (d), since the Examiner had not

yet picked up the case and entered the Submission of March 12, 2003 and/or considered the RCE.

Entry of the Preliminary Amendment is respectfully requested.


A copy of the Second Preliminary Amendment is attached.

Applicant further respectfully requests that the *Notice of Improper Request for* continued examination (RCE) be withdrawn.

Applicant further respectfully requests that the Submission filed March 12, 2003, that the Preliminary Amendment filed May 13, 2003 and the Second Preliminary Amendment filed May 20, 2003 be accepted as timely submissions under 37 CFR 1.114 (d).

Reconsideration of the Notice of improper request for continued examination is respectfully requested.

Respectfully submitted,
Stefan Wintermantel

By: 

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